

## II. REMARKS/ARGUMENTS

### REQUEST FOR RECONSIDERATION

Applicants submit these Amendments and Request for Reconsideration of the office action filed on November 7, 2003 (hereinafter referred to as "Amendments and Office Action Request") along with a Request for Reconsideration of Petition under 37 CFR § 1.137(b) (hereinafter referred to as "Petition Request"). Consistent with Applicants' telephone interview with Examiner Gibson on May 18, 2007 (hereinafter referred to as "May 18, 2007 Interview", a summary of which is attached hereto and labeled "Attachment B") Applicants are filing along with the herein Amendments and Office Action Request a copy of Applicants' telephone interview summary with Examiner Gibson on April 25, 2007 (hereinafter referred to as "April 25, 2007 Interview", which is attached hereto and labeled "Attachment A".)

During the April 25, 2007 Interview, it was the understanding of Applicants that Applicants and the Examiner had an understanding of the status of the application that differs from the "Decision on Reconsideration of Letter Restarting Period of Response Mailed Nov. 7, 2003" (hereinafter referred to as "Reconsideration Decision".) Pursuant to the April 25, 2007 Interview, Applicants understood that Applicants and Examiner analyzed the November 7, 2003 Office Action as an improper "replacement" of the October 24, 2003 Office action; whereas the Reconsideration Decision analyzed the November 7, 2003 Office Action as a "supplemental non-final Office action" of the October 24, 2003 Office Action.

In Applicant's Amendments filed on November 6, 2003 (and according to the Reconsideration Decision also filed on July 9, 2003) in response to a non-final office

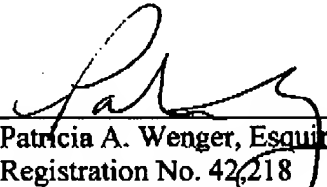
action, Applicant amended claims 4, 7 - 10, 16, and 18 - 19 by canceling them "to further define the present invention and expedite prosecution." In the current response, which is also in response to a non-final office action, Applicants rescind the previously made statement that the cancellation of claims 4, 7 - 10, 16, and 18 - 19 further defines the present invention and expedites prosecution; and as a result, Applicants herein amend the claims for reasons not related to patentability to reassert claims 4, 7 - 10, 16, and 18 - 19 in new claims, respectively numbered 20 - 27, all written as independent claims that do not narrow the literal scope of any claim element.

While the Reconsideration Decision states that "presumably the applicant obtained a copy of the missing Office action of June 2, 2002", and while the Reconsideration Decision terms the November 7, 2003 Office Action as a "supplemental non-final Office action" of the October 24, 2003 Office Action, the November 7, 2003 Office Action states that it is a "replacement" of the October 24, 2003 Office Action. However, in an attempt to move prosecution forward in an expedited manner and based on a firm prosecution record, Applicants and Examiner agreed to proceed as set forth in the May 18, 2007 Interview. Accordingly, Applicants submit the amended claims as follows: the previously canceled claims 4, 7 - 10, 16, and 18 - 19 are resubmitted as new claims 20 - 27, all written as independent claims, and claims 1 - 3, 5, 6, 11 - 15 and 17 are resubmitted as amended in Applicant's filing of November 6, 2003. Following the herein filing of Applicants' Amendments and Office Action Request, it is the understanding of Applicants that Examiner will issue a non-final office action that at least in part will be comprised of a reissue of (1) the relevant portions of the Office Action of October 24, 2003 for original claims 4, 7 - 10, 16, and 18 - 19, which Applicants have resubmitted as

new independent claims 20 - 27, and (2) the Office Action of November 7, 2003 for claims 1 - 3, 5, 6, 11 - 15 and 17, as amended in Applicant's filing of November 6, 2003. Thereafter, the Applicants may move the application forward by having an interview with the Examiner on the substantive issues relating to the pending claims.

Date: 7/16/07

Respectfully Submitted,



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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

APPLICATION NO.: 09/853,428 : FILING DATE: May 10, 2001

ART UNIT: 3739 : EXAMINER: Gibson, Roy Dean

FIRST NAMED INVENTOR: George Brainard

TITLE: Photoreceptor System for Melatonin Regulation and Phototherapy

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Honorable Commissioner for Patents  
Alexandria, VA 22313-1450

**INTERVIEW SUMMARY**

Dear Sir:

On April 25, 2007, Applicants' counsel, Patricia A. Wenger, had a telephone interview with Examiner Roy Dean Gibson. Applicants' counsel noted she had read Mr. Gibson's Miscellaneous Action dated April 20, 2007 entitled: "REQUEST FOR RECONSIDERATION OF LETTER RESTARTING PERIOD OF RESPONSE MAILED ON NOVEMBER 7, 2003 from Applicant dated August 1, 2006," in which the Examiner dismissed the Request for Reconsideration. Applicants' counsel indicated to Mr. Gibson the following: 1) in the September 30, 2003 notice granting the petition to revive and withdrawing the notice of abandonment, the Petitions Attorney required the Technology Center to re-mail the original office action and to restart the time period for response; 2) on October 24, 2003, the Examiner re-sent the original office action that addressed the originally filed 19 claims; and 3) the Examiner sent an Office Action on

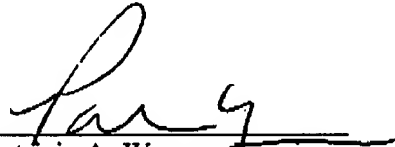
**ATTACHMENT A**

November 7, 2003 that *replaced* the Office Action of October 24, 2003 and that addressed 11 claims.

Applicants' Attorney suggested that the November 7, 2003 Office Action was sent in error.

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JUL 16 2007

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**INTERVIEW SUMMARY**

Dear Sir:

On May 18, 2007, Applicants' counsel, Patricia A. Wenger, had a telephone interview with Examiner Roy Dean Gibson. Applicants' counsel suggested the following procedure, following the previous interview of April 25, 2007 with Mr. Gibson and receipt of Mr. Schmidt's and Mr. Wood's petition decisions, to which Mr. Gibson agreed:

1. Applicants will file a request for reconsideration of Mr. Wood's Petition Decision;
2. Along with the request for reconsideration, Applicants will file a request for reconsideration to the office action filed on November 7, 2003 that consists of 1) a statement indicating that the Applicants and Examiner misunderstood the status of the application in relation to Mr. Schmidt's Decision; and 2) amended claims that will include the previously canceled claims 4, 7 - 10, 16, and 18 - 19, resubmitted as new claims 20 - 27, and claims 1 - 3, 5, 6, 11 - 15 and 17, as amended in Applicant's filing of November 6, 2003.


**ATTACHMENT B**

3. Following Applicants' request for reconsideration of the Petition Decision and the request for reconsideration of the office action, Examiner agreed to issue a non-final office action (referred to herein as "Non-Final Office Action") that will be comprised at least in part of a reissue the relevant portions of office action of October 24, 2003 for claims 4, 7 - 10, 16, and 18 - 19, which Applicants will resubmit as new claims 20 - 27, and the office action of November 7, 2003 for claims 1 - 3, 5, 6, 11 - 15 and 17 as amended in Applicant's filing of November 6, 2003.

4. Following Examiner's issue of the Non-Final Office Action, Applicants will schedule an interview with the Examiner to move the application forward.

Date: 7/16/07

Respectfully Submitted,

  
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